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EXAMINER	
RUSTEMEYER, BRETT J	

ART UNIT	PAPER NUMBER
2426	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No.	Applicant(s)	
	10/512,052	MARUYAMA ET AL.	
	Examiner	Art Unit	
	BRETT RUSTEMEYER	2426	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01/14/2009 (Applicant's Response)*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23 and 25-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23 and 25-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *21 October 2004* is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 15th, 2008 has been entered.

Art Unit Change

2. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2426.

Response to Amendment

3. This Office action is in reply to Applicant's amendment and response dated December 24th, 2008, hereinafter "Applicant's Response". In response rejections made in a previous Office action issued by the Examiner, dated October 16th, 2008 hereinafter "Examiner's Action", applicant amended claims 1, 3, 4, 10, 27, 28, 35, and 36. Further the Applicant has provided arguments and remarks respectfully requesting the withdrawal of the Examiner's: 35 U.S.C. § 112 – Second Paragraph rejections of claims 3-6, 10, 35 and 36; and Examiner's 35 U.S.C. §

103(a) rejections of claims 1-23, and 25-36 in light of the amendments. Claims 1-23 and 25-36 are pending.

Response to Arguments

4. Applicant's amendment to claim 3-6, 10, 35 and 36 documented in Applicant's Response, with respect to Examiner's claim rejection under 35 U.S.C. § 112 – Second Paragraph has been considered, and is considered fully persuasive. The 35 U.S.C. § 112 – Second Paragraph rejections pertaining to claims 3-6, 10, 35 and 36 are herein removed.

5. Applicant's arguments documented in Applicant's Response with respect the Examiner's rejections under 35 U.S.C. § 103(a) have been fully considered but are moot in view of the new grounds of rejection(s).

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

a. Claims 1, 27, and 28 fail to fall within a statutory category of invention. It is directed to a program itself not a process occurring as a result of executing the program, a machine programmed to operate in accordance with the program nor a manufacture structurally and functionally interconnected with the program in a manner which enables the program to act as a computer component and realize its functionality. It's also clearly

not directed to a composition of matter. Therefore, it's non-statutory under 35 U.S.C. 101.

b. Since dependent claims 2-23, 25, 26, and 29-36 fail to remedy deficiencies presented in claims 1, 27, and 28, dependent claims 2-26, and 29-36 are rejected accordingly.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

8. Claims 1-23, and 25-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claims 1, 27, and 28 recites the limitation "every time the same operation of the operator is performed". However, it is unclear as to which operation the Applicant is referring to. For example, "the same operation" could be interpreted as one or more of the following types: "select[ing] from among a plurality of content providing stations having the contents or content providing devices" and/or "transmitting a content switching instruction to the content selection requesting station".

b. Since claims 2-23, 25-26, 29-36 are dependent upon claim 1, they are rejected accordingly.

c. Claims 16 and 17 recites the limitation "the content". However, it is unclear as to which content the Applicant is referring to. For example, "a content that the providing station is about to send back" and "a content that is to be selected next" both provide antecedent basis for "the content" rendering the claims indefinite.

d. Claims 21-23 recites the limitation "... too distant..." which is a relative phrase rendering the claim indefinite.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in **Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966)**, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: ***(See MPEP Ch. 2141)***

a. Determining the scope and contents of the prior art;
b. Ascertaining the differences between the prior art and the claims in issue;
c. Resolving the level of ordinary skill in the pertinent art; and
d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.

10. Claims 1-4, 7-14, 16-23, 26, 29-31, 33-36 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent Application Number, "2003/0105763 A1", invented by Chatfield et al., hereinafter "Chatfield".

Regarding claim 1, Chatfield reads on a content selection method for selecting a content or content providing device from among a plurality of contents or content providing devices, in which a content selection requesting station selects from among a plurality of content providing stations having the contents or content providing devices (*Chatfield*: [0022] & [0026]), comprising:

the content selection requesting station storing a selection rule for selecting from among the content providing stations {Since the end user submits his/her preferred service provider and alternate service provider(s) from a workstation to a web server (*Chatfield*: [0028], [0029], [0032], & [0034]), the selection is inherently stored and/or buffered by the end user's workstation for retrieval, processing, and transmission over the network};

transmitting a content switching instruction to the content selection requesting station in accordance with operation of an operator (e.g., request for service) - (*Chatfield*: [0026], [0032], [0033], & [0060]);

the content selection requesting station, which has received the content switching instruction, transmitting the content switching instruction to a content providing station (e.g., particular service provider) - (*Chatfield*: FIG. 4B, [0033], & [0046]); and

wherein, the content providing station stores a selection order management table (e.g., database structure) indicative of an order for selecting from among the plurality of contents or content providing devices (*Chatfield*: FIG. 6, [0038], & [0054]), and every time the same operation of the operator is performed (e.g., request for service) - (*Chatfield*: [0026], [0032], [0033]), the content providing station refers to the selection order management table and switches the content or content providing device to be selected to a content or content providing

device of an order following an order of a currently selected content or content providing device in the selection order management table in a case where the content or content providing device of the order following the order of the currently selected content or content providing device is present in the selection order management table (*Chatfield*: FIG. 6, & [0054]-[0056]).

Regarding claim 2, Chatfield reads on the method as set forth in claim 1, further comprising:

sending back (i.e., providing) the content held by the content providing station, from the content providing station that has received the content switching instruction, to the content selection requesting station (*Chatfield*: [0033]).

Regarding claims 3 and 36, Chatfield reads on the method as set forth in claim 1, further comprising:

the content selection requesting station (*Chatfield*: See workstation [0034] further described in [0057]) storing information for specifying a content providing station (*Chatfield*: See "service provider name" in [0032], [0034]), an associated content (*Chatfield*: e.g., "particular service name" in [0032], [0034]), and an associated content providing device (*Chatfield*: e.g., "IPsec", which renders the use of a destination IP address in the header [0033], or virtual path identifier - See "ATM mode" in [0033], for establishing a connection between the end-user and the preferred service provider [0046]) that have been most recently selected by the content selection requesting station {Since the end user accesses a provider's offered services by selecting his/her preferred services via a workstation coupled to a web server (*Chatfield*: [0033]-

[0034]), the end user's workstation inherently stores and/or buffers such information for processing, display, and transmission}; and

the content selection requesting station resuming, in accordance with the information for specifying the content providing station and the associated content providing device that have been most recently selected by the content selection requesting station (e.g., database structure) – (*Chatfield*: FIG. 6, [0038], & [0054]), connection with the content providing station and the associated content providing devices having the associated content that have been most recently selected by the content selection requesting station (*Chatfield*: [0033], [0040], & [0046]), if the content requesting station has previously received the associated content from the associated content providing device of the content providing station and the connection has been stopped (*Chatfield*: [0032], [0034], [0040], & [0046]).

Regarding claim 4, Chatfield discloses the respective limitations of claim 3 in addition to:

the method as set forth in claim 1, further comprising:

the content providing station storing information for specifying an associated content or content providing device that has been most recently selected by the content selection requesting station (*Chatfield*: [0032], [0038], & [0054] - Since the service provider receives the end user's selection through a communication session and provides said user with their selected service(s) over the network, their selection information is stored or buffered for retrieval, processing, and transmission.); and

resuming, in accordance with these sets of the information for specifying the content providing station that has been most recently selected by the content selection requesting station

and the information for specifying the associated content or content providing device that has been most recently selected by the content selection requesting station (e.g., database structure) – (*Chatfield*: FIG. 6, [0038], & [0054]), connection between the content selection requesting station and the content providing station that has been most recently selected by the content selection requesting station, if the content selection requesting station has previously received the associated content from the content providing station and the connection has been stopped, or if the content selection requesting station has previously received a content from the content providing device of the content providing station and the connection has been stopped (Please refer to the remarks and citations cited by the Examiner in response to claim 3).

Regarding claim 7, Chatfield reads on the method as set forth in claim 2, wherein:

the content providing station transmits, to the content selection requesting station, information regarding a content that is to send back (i.e., provided) to the content selection requesting station (*Chatfield*: [0033]).

Regarding claims 8 and 9, Chatfield reads on the method as set forth in claim 2, wherein:

the content providing station transmits, to the content selection requesting station, information regarding a content or content providing device that is available to be selected next by the content selection requesting station (*Chatfield*: [0032], [0034], & [0038]).

Regarding claim 10, Chatfield reads on the method as set forth in claim 1, wherein:

at least two content providing stations are targeted for selection (*Chatfield*: FIG. 6, [0032], [0034], [0038], & [0054]-[0056]);

the selection rule regarding the at least two content providing stations, which is stored in the content selection requesting station, is to reselect a content providing station that has been selected first, after selection of each of the at least two content providing stations targeted for selection is performed in turn in accordance with the selection rule (*Chatfield*: See [0043] and [0046] with respect to [0028], [0029], [0032], and [0034] as presented in response to claim 1).

Regarding claim 11, Chatfield reads on the method as set forth in claim 1, wherein:

if there still remains a content or content providing device to select (e.g., alternate service provider), the thus selected one of the content providing stations selecting, in accordance with a predetermined content selection rule (*Chatfield*: FIG. 6, [0032], [0034], [0038], & [0054]-[0056]), a content or content providing device to select next, and the thus selected one of the content providing stations transmitting what is contained in the content or content providing device to select next, to the content selection requesting station (*Chatfield*: [0032]-[0034], & [0038]); and

if there remains no content or content providing device that is to select, the thus selected one of the content providing stations transmitting information that there remains no content or content providing device to select (*Chatfield*: [0040], [0047]-[0050] with reference to FIG. 4C).

Regarding claim 12, Chatfield reads on the method as set forth in claim 1, wherein:

when receiving the information that there remains no content or content providing device to select, the content selection requesting station changes a content providing station connected to the content selection requesting station, in accordance with the selection rule for selecting from among the content providing stations (*Chatfield*: [0040], [0047]-[0050] with reference to FIG. 4C).

Regarding claim 13, Chatfield reads on the method as set forth in claim 1, further comprising:

the content selection requesting station confirming

(i) a communication state regarding communication between the content selection requesting station and the thus selected one of the content providing stations (*Chatfield*: [0046], [0050], & [0068] / Alternatively, "alternate service provider" state – FIG. 6, [0034], [0038], [0044]), and

(ii) a response state regarding responding from the thus selected one of the content providing stations (*Chatfield*: [0046], [0050], & [0068]); and

if the communication state is less than a level, the content selecting requesting station selecting a different content providing station to select next in accordance with the selection rule for selecting from among the content providing stations (*Chatfield*: [0046], [0047], & [0051]).

Regarding claim 14, Chatfield reads on the method as set forth in claim 2, wherein:

the content providing station confirming

(i) a communication state regarding communication between the content providing station and a content that is to send back (*Chatfield*: [0046], [0050], & [0068] / Alternatively, "alternate service provider" state – FIG. 6, [0034], [0038], [0044]), and

(ii) a response state regarding responding with respect to the content that is to send back (*Chatfield*: [0046], [0050], & [0068]); and

if the communication state is less than a level, the content providing station sending back a content that is to be selected next in accordance with a predetermined content selection rule (*Chatfield*: [0046], [0047], & [0051]).

Regarding claim 16, Chatfield reads on the method as set forth in claim 2, wherein:

in a state where a content that the content providing station is about to send back is in use, the content providing station sending back a content that is to be selected next to the content that the content providing station is about to send, in accordance with a predetermined content selection rule (*Chatfield*: [0046], [0047], & [0051]).

Regarding claim 17, Chatfield reads on the method as set forth in claim 16, wherein:

the state where the content is in use is a state where the content is being used by another content selection requesting station, or a state where a user on the content providing station side is using the content without using the content selection requesting station (*Chatfield*: FIG. 1, [0023]-[0024], [0034], & [0038]).

Regarding claim 18, Chatfield reads on the method as set forth in claim 1, further comprising:

the content selection requesting station confirming

(i) a communication state regarding communication between the content selection requesting station and the thus selected one of the content providing stations (*Chatfield*: [0046], [0050], & [0068] / Alternatively, "alternate service provider" state – FIG. 6, [0034], [0038], [0044]), and

(ii) a response state regarding responding from the thus selected one of the content providing stations (*Chatfield*: [0046], [0050], & [0068]); and

if the communication state is less than a level, the content selection requesting station providing, to the operator, information that the communication state is less than the level (*Chatfield*: [0034], [0050] / Alternatively, FIG. 6, [0034], & [0038]).

Regarding claim 19, Chatfield reads on the method as set forth in claim 1, further comprising:

the content providing station confirming

(i) a communication state regarding communication between the content providing station and the content providing device thus selected (*Chatfield*: [0046], [0050], & [0068] / Alternatively, "alternate service provider" state – FIG. 6, [0034], [0038], [0044]), and

(ii) a response state regarding responding with respect to the content providing device thus selected (*Chatfield*: [0046], [0050], & [0068]);

if the communication state is less than a desired level, the content providing station transmitting, to the content selection requesting station, information that the communication state is less than the level (*Chatfield*: [0034], [0050] / Alternatively, FIG. 6, [0034], & [0038]);

the content selection requesting station receiving the information (*Chatfield*: [0034], & [0050]); and

the content selection requesting station providing, to the operator, information that the communication state between the content providing station and the content providing device thus selected is less than the level (e.g., service provider unable to provide service from the service provider's equipment / Alternatively, i.e., the content providing device is an alternate service provider) - (*Chatfield*: [0034], & [0050]-[0051]).

Regarding claim 20, Chatfield reads on the method as set forth in claim 13, wherein:

the state where the communication state is less than the level is a state where communication is possible but one of electric wave strength, the response state, and a communication error ratio is less than the level {(*Chatfield*: [0032], [0034], [0050] & [0068]) - i.e., it is not possible to set up a network path between a selected alternate service provider and the end user}.

Regarding claim 21, Chatfield reads on the method as set forth in claim 13, wherein:

the state where the communication state is less than the level is

(i) a state where a station at the other end is not turned on, (ii) a state where no response is received because the station at the other end becomes too distant, **or** (iii) a state where the thus selected one of the content providing stations is physically disconnected from the content providing device (*Chatfield*: [0050] & [0068]).

Regarding claim 22, Chatfield reads on the method as set forth in claim 18, wherein:

in providing, to the operator, information that the communication state between the content selection requesting station and the selected one of the content providing stations is less than the level (*Chatfield*: [0034], [0046], [0050], & [0068] / Alternatively, "alternate service provider" state – FIG. 6, [0034], [0038], [0044]), when the communication level is as such, the content selection requesting station distinctly informing the operator whether the communication state is

(A) a communication state where communication is possible but one of electric wave strength, the response state, and a communication error ratio is less than the desired level {(*Chatfield*: [0032], [0034], [0050] & [0068]) - i.e., it is not possible to set up a network path between the selected alternate service provider and the end user, requiring a different alternate service provider or a default service provider to provide the requested service} **or**

(B) a communication state where (i) a station at the other end is not turned on, (ii) no response is received because the station at the other end becomes too distant, or (iii) the content providing device is physically disconnected (*Chatfield*: [0050] & [0068]).

Regarding claim 23, Chatfield reads on the method as set forth in claim 19, wherein:

in providing, to the operator, information that the communication state between the content selection requesting station and the content providing device thus selected is less than the desired level (*Chatfield*: [0034], [0046], [0050], & [0068] / Alternatively, "alternate service provider" state – FIG. 6, [0034], [0038], [0044]), when the communication level is as such, the

content selection requesting station distinctly informing the operator whether the communication state is

(A) a communication state where communication is possible but one of electric wave strength, the response state, and a communication error ratio is less than the desired level {(*Chatfield*: [0032], [0034], [0050] & [0068]) - i.e., it is not possible to set up a network path between the selected alternate service provider and the end user, requiring a different alternate service provider or a default service provider to provide the requested service}, **or**

(B) a communication state where (i) a station at the other end is not turned on, (ii) no response is received because the station at the other end becomes too distant, or the content providing device is physically disconnected (*Chatfield*: [0050], [0068]).

Regarding claim 26, Chatfield reads on the method as set forth in claim 1, wherein:

the selection rule is stored only in the content selection requesting station (*Chatfield*: [0034], [0057]; wherein the data center is and end user's workstation are "a single computer system"); and

the content or content providing device is held (i.e., restrained from access) only by the content providing station (*Chatfield*: [0050]).

Regarding claim 29, Chatfield reads on a content selection requesting station which selects a desired content or content providing device from among contents or content providing devices that a plurality of content providing stations have (*Chatfield*: [0032], & [0034]), wherein:

the content selection requesting station transmits a content switching instruction to the content providing station according to the method as set forth in claim 1 (*Chatfield*: [0023], [0033] – in accordance with Examiner's remarks and citations to claim 1).

Regarding claim 30, Chatfield reads on a content providing station which, when selected by a content selection requesting station, transmits, to the content selection requesting station, what is contained in the content or content providing device that the content providing station has (*Chatfield*: [0033]), wherein:

the content providing station receives a content switching instruction from the content selection requesting station according to the method as set forth in claim 1 (*Chatfield*: [0033] – in accordance with Examiner's remarks and citations to claim 1).

Regarding claim 31, Chatfield reads on a content switching instruction device for use in the method as set forth in claim 1, which transmits, to a content selection requesting station, a content switching instruction given by an operator (*Chatfield*: [0032], [0033], [0060] – in accordance with Examiner's remarks and citations to claim 1).

Regarding claim 33, Chatfield reads on a program for causing a computer to implement the method as set forth in claim 1 (*Chatfield*: [0060]-[0064] – in accordance with Examiner's remarks and citations to claim 1).

Regarding claim 34, Chatfield reads on a computer-readable recording medium storing a program for causing a computer to implement the method as set forth in claim 1 (*Chatfield*: [0065]-[0066] – in accordance with Examiner's remarks and citations to claim 1).

Regarding claim 35, Chatfield reads on a network system having content selection requesting station, and a plurality of content providing stations wherein the method as set forth in claim 1 is performed (*Chatfield*: [0022] – in accordance with Examiner's remarks and citations to claim 1),

the content selection requesting station selecting a desired content from among contents that the content providing stations have (*Chatfield*: [0023], & [0033]),

the content selection requesting station transmitting a content switching instruction to each of the content providing stations (e.g., in the event the end user has requested service from each of the service providers as a function of time) according to a method as set forth in claim 1 (*Chatfield*: [0026], [0032], [0033], & [0060] – in accordance with Examiner's remarks and citations to claim 1),

each of the content providing stations (e.g., in the event the end user has requested service from each of the service providers as a function of time), when selected by the content requesting station, transmitting to the content selection requesting station, what is contained in content that the content providing station has (*Chatfield*: [0032], & [0033]),

each of the content providing stations receiving the content switching instruction from the content selection requesting station according to the method as set forth in claim 1 (*Chatfield*: FIG. 4B, [0033], & [0046]).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in **Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966)**, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: ***(See MPEP Ch. 2141)***

e. Determining the scope and contents of the prior art;
f. Ascertaining the differences between the prior art and the claims in issue;
g. Resolving the level of ordinary skill in the pertinent art; and
h. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.

12. Claims 5, 6, 25, and 32 are rejected under 35 U.S.C. 102(e) as being unpatentable over Chatfield.

Regarding claims 5 and 6, Chatfield discloses that a service provider stores the selection request(s) of end users received via an network, but are silent to mention how long the data is stored (Please refer to the reasons and citations made by the Examiner in response to claims 3 & 4). However, Official Notice is taken that both the concept and advantage of deleting an inactive user's account comprising their transaction history was notoriously well known and expected in the art, at the time of the invention, and therefore would have been obvious to incorporate in Chatfield for the benefit of maintaining the records of valuable customers.

Regarding claim 32, Chatfield reads on the content switching instruction device as set forth in claim 31,

wherein the content switching instruction device transmitting the content switching instruction given by the operator (*Chatfield*: [0026], [0032], [0033], and [0060]). Chatfield is silent to mention that the switching instruction is transmitted without using the content selection requesting station. However, Official Notice is further taken that both the concept and advantage of transmitting signals to a workstation over a local area network (LAN) was notoriously well known and expected in the art, at the time of the invention, and therefore would have been obvious to incorporate in Chatfield for the benefit of providing end users the spatial flexibility to transmit signals from other computing devices on a network as desired by Chatfield in [0068].

Regarding claim 25, Chatfield reads on the method as set forth in claim 1, wherein:

the content selection requesting station includes means which controls switching of the external connection device for the display device on which the content received by the content selection requesting station is to be displayed (Please refer to Examiner's remarks and citations as stated in response to claim 32);

if the content selection requesting station is selected as an external connection device for a display device when the content selection requesting station receives the content selection switching instruction entered by the operator, the content selection requesting station performs content selection or content providing device selection (*Chatfield*: [0032], & [0033]); and

if all contents or content providing devices are selected once, or if a station other than the content selection requesting station is selected as the external connection device for the display

device, the switching of the external connection device is carried out (Please refer to Examiner's remarks and citations as stated in response to claim 32).

13. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chatfield in view of United States Patent Application Number, "US 2005/0114445 A1", invented by Tracton et al., hereinafter "Tracton".

Regarding claim 15,

Chatfield is silent on the method as set forth in claim 2, wherein: in the case where bandwidth available for communication between the content selection requesting station and the content providing station is narrower than bandwidth necessary for transmitting a content that the content providing station is about to send back, the content providing station transmitting a content that is to be selected next to the content that the content providing station is about to send back, in accordance with the a predetermined content selection rule.

However, in related art, Tracton discloses a system and method for dynamic content customization in a client server environment. In this system, a client transmits to a server its characteristic profile indicating its available computing resources and network bandwidth (*Tracton*: [0025]). Tracton further teaches that content received over the web may be formatted and scaled to correspond to typical incoming client characteristics through the use of a scaler during a communication session (*Tracton*: [0025], [0032], [0044]). It would have been obvious for one skilled in the art, at the time of the invention, to use the system and method for dynamic customization of content based upon a client's processing abilities and network bandwidth taught

by Tracton in a service provider's head end disclosed by Chatfield. Using the known technique of automatically scaling web content according to a client's processing abilities and network bandwidth said video or data for fulfilling a content selection request from a processing or bandwidth limited end user would have been obvious to one of ordinary skill.

14. Claims 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chatfield in view of United States Patent Number, "6,269,394 B1", invented by Kenner et al., hereinafter "Kenner".

Regarding claim 27, Chatfield reads on a content selection method in which in accordance with a request from a content selection requesting station, a content providing station selects a content that the content from among a plurality of contents that the providing station have (*Chatfield*: [0023], [0032], [0033]) and sends back the selected content to the content requesting station (*Chatfield*: [0033]), the method comprising:

the content providing station storing a control signal (e.g. channel change request from a user) for the content that the content providing station has (*Chatfield*: [0033] - As further described by the Examiner in response to claim 4); and

the content providing station receiving a content switching instruction from the content selection requesting station in accordance with operation of the operator (*Chatfield*: FIG. 4B, [0033], & [0046]); and

wherein, the content providing station switches the content to be sent back, every time the same operation of the operator is performed (Please refer to the Examiner's remarks and citations in response to claim 1).

Chatfield is silent to disclose: *if the content to be sent back is not available for viewing, the content providing station transmitting the control signal to the content so as to cause the content to be available for viewing.*

However, in related art, Kenner discloses a system and method for delivery of video and data over a computer network. Kenner teaches that a user terminal send's a user's request for video or data to the Primary Index Manager (PIM) via a Search and Retrieval Unit (SRU) (*Kenner*: [Col. 8, L55-L67]). The PIM determines whether the user has access to a copy of the requested video or data locally and further determines a local copy is the current version (*Kenner*: [Col. 25, L44 to Col. 26, L16]). If the requested video or data is locally unavailable, unavailable from the PIM, or the incorrect version, the PIM sends a control signal to other Index Managers (IM) to locate and make said video or data available for download to the user (*Kenner*: [Col. 25, L44 to Col. 26, L16]). It would have been obvious for one skilled in the art, at the time of the invention, to use the system and method for retrieving the current version of said video or data taught by Kenner in a service provider's head end taught by Chatfield. Using the known technique of locating, retrieving and updating said video or data for fulfilling an end user's content selection request would have been obvious to one of ordinary skill.

Regarding claim 28, the combined teaching of Chatfield, and Kenner, as a whole, discloses the respective limitations from claim 27, in addition to:

when the content to be sent is changed from a first content (i.e. "incorrect version") to a second content (i.e., "current version"), the content providing station transmitting a control signal to the first content so as to cause the first content to be not in use (*Kenner*: [Col. 25, L44 to Col. 26, L16]).

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wang et al. (U.S. Patent Application Number US 2003/0174648 A1) discloses a method of removing a client's account history from a distribution server upon confirmation of logoff.

Contact

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brett Rustemeyer whose telephone number is (571) 270-1849. The examiner can normally be reached on Mon. - Thurs. 6:30 a.m.-5 p.m. EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BR/

Examiner - Art Unit 2426

March 24th, 2009

/VIVEK SRIVASTAVA/

Supervisory Patent Examiner, Art Unit 2426